

GJR/da  
667-82153

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

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ADRIAN SCHOOLCRAFT,

Plaintiff,

**NOTICE OF MOTION**

-against-

10 CIV 6005 (RWS)

THE CITY OF NEW YORK, DEPUTY CHIEF  
MICHAEL MARINO, Tax Id. 873220, Individually  
and in his Official Capacity, ASSISTANT CHIEF  
PATROL BOROUGH BROOKLYN NORTH  
GERALD NELSON, Tax Id. 912370, Individually and  
in his Official Capacity, DEPUTY INSPECTOR  
STEVEN MAURIELLO, Tax Id. 895117, Individually  
and in his Official Capacity CAPTAIN THEODORE  
LAUTERBORN, Tax Id. 897840, Individually and in  
his Official Capacity, LIEUTENANT JOSEPH GOFF,  
Tax Id. 894025, Individually and in his Official  
Capacity, SGT. FREDERICK SAWYER, Shield No.  
2576, Individually and in his Official Capacity,  
SERGEANT KURT DUNCAN, Shield No. 2483,  
Individually and in his Official Capacity,  
LIEUTENANT CHRISTOPHER BROSCART, Tax  
Id. 915354, Individually and in his Official Capacity,  
LIEUTENANT TIMOTHY CAUGHEY, Tax Id.  
885374, Individually and in his Official Capacity,  
SERGEANT SHANTEL JAMES, Shield No. 3004,  
AND P.O.'s "JOHN DOE" #1-50, Individually and in  
their Official Capacity (the name John Doe being  
fictitious, as the true names are presently unknown)  
(collectively referred to as "NYPD defendants"),  
JAMAICA HOSPITAL MEDICAL CENTER, DR.  
ISAK ISAKOV, Individually and in his Official  
Capacity, DR. LILIAN ALDANA-BERNIER,  
Individually and in her Official Capacity and  
JAMAICA HOSPITAL MEDICAL CENTER  
EMPLOYEE'S "JOHN DOE" # 1-50, Individually and  
in their Official Capacity (the name John Doe being  
fictitious, as the true names are presently unknown),

Defendants.

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**PLEASE TAKE NOTICE**, that upon the annexed Declaration of Gregory J. Radomisli,  
Esq., the Exhibits annexed thereto, the accompanying Memorandum of Law, and upon all prior

pleadings and proceedings heretofore had herein, defendant JAMAICA HOSPITAL MEDICAL CENTER, by its attorneys, MARTIN CLEARWATER & BELL LLP, will move this Court at 500 Pearl Street, New York, New York on the 17<sup>th</sup> day of November, 2010 at 12:00 p.m. or as soon thereafter as counsel can be heard, for an Order:

1) Dismissing plaintiff's Complaint pursuant to Rules 8(a)(2), 12(b)(1), 12(b)(6) and 12(c) of the Federal Rules of Civil Procedure because plaintiff cannot state a claim against JAMAICA HOSPITAL MEDICAL CENTER based upon the alleged constitutional violations of its employees;

2) Dismissing plaintiff's Complaint pursuant to Rules 8(a)(2), 12(b)(1), 12(b)(6) and 12(c) of the Federal Rules of Civil Procedure because the moving defendant was not a state actor acting under color of law; and

3) Such other and further relief as this Court deems just and proper.

**PLEASE TAKE FURTHER NOTICE** that answering papers, if any, are to be served in accordance with the Federal Rules of Civil Procedure.

Dated: New York, New York  
October 12, 2010

Yours, etc.,

MARTIN CLEARWATER & BELL LLP

By



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